THE HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.5135 of 2005

and

Contempt Case No.63 of 2006

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Dated:20.03.2006

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WRIT PETITION No.5135 of 2005

Between:

Muvvala Srinivas Rao, S/o.Chandraiah, and others.

…Petitioners

And

The Mandal Revenue Officer, Pedapadu Mandal, West Godavari District.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5135 of 2005

and

Contempt Case No.63 of 2006

COMMON ORDER:

The petitioners, who are 28 in number, filed the writ petition seeking a direction to respondent No.1 to handover possession of lands in Survey Nos.407, 414 and 437 (hereinafter called 'the petition schedule land) of Gudipadu Village of Pedapadu Mandal, West Godavari District.

This Court while admitting the Writ Petition on 17.06.2005 directed the first respondent to take steps to deliver possession of the land assigned to the petitioners. Alleging that the said order is disobeyed by the first respondent, the petitioners filed C.C.No.63 of 2006. When this Contempt Case was called, a counter affidavit is filed to the effect that on 12.08.2004 itself the land assigned to the petitioners was handed over in the presence of the Panchayat Secretary of the Village. Therefore, this matter was directed to be listed along with the Writ Petition. After hearing both the Counsel, the matters are being disposed of by this common order.

The petition schedule property is a surplus agricultural land, which is vested and taken over by the Government of Andhra Pradesh in accordance with the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Land Reforms Act'). It is the case of the petitioners that the land was assigned to them on 02.10.2004 in the presence of a local MLA and the necessary pattadar passbooks were also issued to them. However, the first respondent did not physically handover possession of the land, and when the petitioners went to the land on 18.10.2004, the owners (original declarants under the Land Reforms Act) abused them by their caste name. The petitioners, therefore, filed a criminal complaint, which was registered by the second respondent as Crime No.142 of 2004 under Section 3(1)(iv)(x) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act'). The petitioners again represented to the first respondent to handover possession of the land, in vain. Therefore, the Writ Petition is filed.

In the counter affidavit filed by the first respondent in the Contempt Case, while enclosing the report of the Mandal Surveyor, Incharge of Pedapadu, as well as the handing over and/or taking over certificate signed by about 24 petitioners, it is stated that after assigning the land, the same was handed over to the petitioners in the presence of the Panchayat Secretary on 12.08.2004, and that pattadar passbooks and title deeds were already issued. Therefore, it is claimed that the orders passed by this Court in W.P.M.P.No.6818 of 2005 were already implemented. It is further averred that as the possession was already handed over to the beneficiaries, it is their responsibility to protect their possession from encroachment by private parties.

There is no denial by the petitioners as well as the learned Government Pleader for Revenue that the land in Survey Nos.407, 414 and 437 situated in Gudipadu Village of Pedapadu Mandal is surplus, and accordingly, the land is vested in the Government by reason of the provisions of the Land Reforms Act. There is also no dispute that after the land was assigned to the petitioners, who are admittedly the

persons belonging to Scheduled Castes and Backward classes, the pattadar passbooks and title deeds were issued to them. However, there is a dispute as to whether the Mandal Surveyor, i/c Pedapadu, handed over possession of the land to the petitioners on 12.08.2004. The first respondent has enclosed a xerox copy of the document showing that on 12.08.2004 after taking possession of the land, twenty four of the petitioners have signed in evidence of taking possession. Therefore, *prima facie,* possession was handed over to them. If they were dispossessed by the original declarants/owners, the petitioners have to seek remedy elsewhere. Indeed, with the assistance of the learned Counsel for the petitioners, this Court has gone through the complaint given by petitioner Nos.1, 3, 4, 5 and 8 to the second respondent under Section 3(1)(iv)(x) of the Atrocities Act. A reading of the complaint would show that when the petitioners went to their land, they found as many as eight persons dug fish tanks and while abusing the petitioners in vulgar language, threatened them from entering the land. Therefore, a reasonable inference can be drawn that the writ petition is filed on a factual foundation, which is not sound. This Court, further observes that based on the averments by the Mandal Revenue Officer and the survey report issued by the Mandal Surveyor, i/c Pedapadu, to the effect that possession was handed over in the presence of the Panchayat Secretary, the petitioners may avail a common law remedy before the appropriate Court.

The Writ Petition and the Contempt Case, with the above directions and observations, are accordingly dismissed. No costs.

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(V.V.S.RAO, J)

20.03.2006

vs